



*The Judiciary, State of Hawaii*

**Testimony to the House Committee on Human Services**

The Honorable John M. Mizuno, Chair  
The Honorable Jo Jordan, Vice Chair

Monday, March 12, 2012, 8:30 a.m.  
State Capitol, Conference Room 329

by  
R. Mark Browning  
Deputy Chief Judge / Senior Judge  
Family Court of the First Circuit

**WRITTEN TESTIMONY ONLY**

---

**Bill No. and Title:** Senate Bill No. 3008, Relating to Family Court.

**Purpose:** Allows impoverished plaintiffs or petitioners, in Family Court cases, to serve notice by posting pleading at the courthouse, in lieu of notice by publication, subject to court order, demonstration of diligent search, and mailing of the pleadings to the defendant/respondent, by registered or certified mail, and to the defendant's/respondent's closest known relative.

**Judiciary's Position:**

The Judiciary takes no position on Senate Bill No. 3008. However, we respectfully request that should the Legislature pass this legislation, the effective date of the bill be changed to September 1, 2012, to give the Hawaii Supreme Court time to determine whether new court rules are needed to implement this legislation.

Thank you for the opportunity to present testimony on this measure.

Thank you for the opportunity to testify on (bill).



Telephone: (808) 536-4302 • Fax: (808) 527-8088  
Mailing Address: P.O. Box 37375 • Honolulu, Hawaii 96837-0375  
924 Bethel Street • Honolulu, Hawaii 96813

Calvin Pang, Esq.  
President, Board of Directors

M. Nalani Fujimori Kaina, Esq.  
Executive Director

**TESTIMONY IN SUPPORT OF**  
**SB3008 - RELATING TO FAMILY COURT**

Committee on Human Services  
Representative John Mizuno, Chair  
Representative Jo Jordon, Vice-Chair

March 12, 2012 at 8:30 a.m.

The Legal Aid Society of Hawaii submits testimony in support of SB3008 – Relation to Family Court. This bill would allow posting as an alternative to serving notice by publication for impoverished litigants in all family court matters after a due and diligent search for the defendant. This bill would extend current provisions which allow impoverished litigants in divorce actions to serve by posting in lieu of publication to all family court matters.

Last year, Legal Aid represented over 450 families and children in family law matters. For many of these families, finding the defendant in the case can be difficult. It can be a father who was never part of a child's life, a mother who left the child in the care of her sister and then disappeared, or it could be a grandparent whose whereabouts are just unknown. Under current statutes, if you are unable to locate any of these defendants in actions other than divorce, you must pay to publish notice in a newspaper which circulates in the county of the impending action.

For an impoverished litigant, finding the funds to pay for publication is already difficult. However, recent increases to publication rates have now made it almost impossible. For example, last June, we received a quote for a notice in an adoption case – this quote with all of the required legal language was \$580.10. However, in January 2012, we received a quote for a similar notice, this time the cost for slightly less space was \$1,523.56 (approximately half of the monthly income for a family of five who live under 125% of the federal poverty guideline). In a guardianship case, a notice currently costs \$1,020.95.

This legislation would help alleviate this burden of publication and make it more accessible for:

- grandparents who are caring for their mo'opuna and need guardianship to get the child onto their health insurance, but cannot find the mother;
- a mother who needs to register her child in school, but does not have legal custody and does not know where the father of the child is;
- an aunt and uncle who want to adopt their niece who has lived with them since birth and wants to be part of their family, but they have no idea who the niece's father is or where he can be found

These are families who are trying their best to care for children and should be barred from doing so because they cannot afford the cost to publish notice. We encourage you to pass this legislation to help these families and children.

Thank you for this opportunity to provide testimony.

Sincerely,

M. Nalani Fujimori Kaina  
Executive Director

*The Legal Aid Society of Hawaii (Legal Aid) is the only legal service provider with offices on every island in the state, and in 2011 provided legal assistance to over 10,000 Hawai'i residents in the areas of consumer fraud, public assistance, family law, the prevention of homelessness, employment, protection from domestic violence, and immigration. Our mission is to achieve fairness and justice through legal advocacy, outreach and education for those in need.*



To: Chair Mizuno  
Vice Chair Jordan  
Members of the Committee on Human Services

Fr: Nanci Kreidman, M.A.

RE: SB 3008

Good morning. The Domestic Violence Action Center is in support of SB 3008. This bill would allow posting as an alternative to serving notice by publication for impoverished litigants in all family court matters after a due and diligent search for the defendant. This bill would extend current provisions which allow impoverished litigants in divorce actions to serve by posting in lieu of publication to all family court matters.

Domestic Violence Action Center has a robust caseload comprised of survivors of domestic violence in desperate need of divorce representation. In the first six months of FY 2012, the agency has already received 301 requests for legal representation. For some of these victims, finding the defendant in the case can be difficult. It can be a father who is only intermittently in the child's life, a mother who is in hiding, or a father who is not the abuser and long gone from the partnership and their whereabouts are just unknown. Under current statutes, if you are unable to locate any of these defendants in actions other than divorce, you must pay to publish notice in a newspaper which circulates in the county of the impending action.

For an impoverished survivor, finding the funds to pay for publication is already difficult. However, recent increases to publication rates have now made it almost impossible. Costs for noticing cases is exorbitant.

This legislation would help alleviate this burden of publication and make it more accessible for our client constituency.

Thank you for your consideration.